

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Jose R. & Hanneloren Angulo)
Ward 096, Block 513, Parcel C00050) Shelby County
Residential Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$38,000	\$130,000	\$168,000	\$32,500

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on February 14, 2006 in Memphis, Tennessee. In attendance at the hearing were Jose R. Angulo the appellant, Danny Kail, Esq. and Shelby County Property Assessor's representative Ken Washington.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 8314 Middle Essex Cove in Cordova, Tennessee.

The taxpayer contended that subject property should be valued at \$69.49 per square foot or \$146,000. In support of this position, the taxpayer introduced several comparable sales into evidence. In addition, the taxpayer essentially argued that the current appraisal of subject property does not achieve equalization given the assessor's lower per square foot appraisals of other homes in the immediate area.

The assessor contended that subject property should be valued at \$73.00 per square foot or \$153,400. In support of this position, a spreadsheet summarizing five comparable sales was introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$71.00 per square foot or \$149,200 after rounding.

The administrative judge finds that the parties' contentions of value differed by a relatively insignificant 4.8%. Although the administrative judge normally prefers to adopt one party's contention of value, the administrative judge finds that the preponderance of the

relevant evidence supports adoption of a value at approximately the middle of the established range.

The administrative judge finds that most of the sales relied on by the taxpayer occurred after the relevant assessment date of January 1, 2005. Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that post-assessment date events are not normally relevant. See *Acme Boot Co. & Ashland City Industrial Corp.* (Assessment Appeals Commission, Cheatham Co., Tax Year 1989). However, post-assessment date events have been allowed into evidence to confirm what could have reasonably been assumed on the assessment date. See, e.g., *George W. Hussey* (Assessment Appeals Commission, Davidson Co., Tax Year 1992). Similarly, post-assessment date sales have been allowed into evidence to show a trend in values. See, e.g., *Christine Hopkins* (Assessment Appeals Commission, Franklin Co., Tax Years 1995 and 1996).

The administrative judge finds that both parties' contentions of value support the taxpayer's assertion that values in subject neighborhood have, at least in some instances, been declining since the City of Memphis annexed Cordova. Thus, the administrative judge finds that post-assessment date sales shortly after January 1, 2005 are arguably relevant insofar as they corroborate the trend in values.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the 'Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and equalized by application of the appropriate appraisal ratio . . ." *Id.* at 1.

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

In contending the entire property should be appraised at no more than \$60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more underappraised than average does not entitle him to similar treatment. Secondly, as was the case before the administrative judge, the taxpayer has

produced an impressive number of "comparables" but has not adequately indicated how the properties compare to his own in all relevant respects. . . .

Final Decision and Order at 2. See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were underappraised . . ." Final Decision and Order at 3.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$38,000	\$111,200	\$149,200	\$37,300

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 23rd day of February, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Danny Kail, Esq.
Jose R. & Hanneloren Angulo
Tameaka Stanton-Riley, Appeals Manager